

CITY OF SEATTLE

**ANALYSIS AND DECISION OF THE DIRECTOR
OF THE SEATTLE DEPARTMENT OF CONSTRUCTION AND INSPECTIONS**

SEPA Threshold Determination

2019 Omnibus Legislation

Project Sponsor: City of Seattle Department of Construction and Inspections

Location of Proposal: The proposal is a non-project action, applicable City-wide

SUMMARY OF PROPOSED ACTION

The proposal is to amend the City’s land use regulations to correct typographical errors and section references, clarify regulations, and make minor amendments.

The following approval is required:

SEPA - Environmental Determination - Chapter 25.05, Seattle Municipal Code.

SEPA DETERMINATION: Exempt DNS MDNS EIS

 DNS with conditions

 DNS involving non-exempt grading, or demolition,
or involving another agency with jurisdiction.

BACKGROUND

The Department of Construction and Inspections (SDCI) is responsible for maintenance of the Land Use Code (SMC Title 23). Amendments to the Land Use Code are proposed periodically in an “omnibus ordinance,” which is designed to clarify and improve the function of the existing code. The proposed amendments to the Land Use Code include “clean-up” amendments that correct inadvertent clerical or typographical errors, fix incorrect cross-references, and clarify existing code language. Residents, elected officials, and City staff identified the need for the proposed amendments. In coordination with the City’s Law Department, SDCI has concluded that the changes are not substantive in content.

Public Comment

Proposed changes to the Land Use Code require City Council approval. Public comment will be taken on the proposal during Council meetings and a City Council public hearing.

Proposal Description

This proposal involves numerous minor amendments to the Land Use Code and to some related sections of the Seattle Municipal Code that are intended to clarify current provisions or to correct minor oversights and clerical or typographical errors. The proposed changes in this omnibus are summarized in the Director's Report prepared by SDCI that accompanies the proposed amendments and is published together with the SEPA checklist for public review.

ANALYSIS - SEPA

This proposal is for an adoption of legislation and is defined as a non-project action. The disclosure of the potential impacts from this proposal was made in an environmental checklist submitted by the proponent, dated May 7, 2019. The information in the checklist, a copy of the proposed code changes, the Director's Report and Recommendation, and the experience of the lead agency with review of similar legislative actions form the basis for this analysis and decision.

The proposed amendments may result in potential environmental impacts, which are identified and discussed below.

ELEMENTS OF THE ENVIRONMENT

Adoption of the proposed Land Use Code amendments would not result in any immediate adverse short-term impacts because the adoption would be a non-project action. The discussion below evaluates the potential long-term impacts that might conceivably result from differences in future development patterns due to the proposed amendments.

Natural Environment

Earth, Air, Water, Plants and Animals, Energy, Natural Resources, Environmentally Sensitive Areas, Noise, Releases of Toxic or Hazardous Materials

The proposed changes would result in no direct impacts, and are unlikely to result in significant indirect or cumulative adverse impacts related to earth, air, water, plants/animals, fisheries, energy, natural resources, sensitive areas, noise, or releases of toxic/hazardous substances. The changes do not alter the eligible locations for development. As discussed below, the proposed changes to the Land Use Code are considered with the context of the City's related environmental protection regulations.

The proposal does not significantly alter any procedures or regulations related to natural environment protections. Development of specific projects on individual sites is subject to the City's existing regulations, such as the Stormwater Code, the Shoreline Management Program, Grading and Drainage Ordinance, the Regulations for Environmentally Critical Areas, and the Noise Ordinance. Any future project-specific development proposal that exceeds adopted thresholds is subject to environmental review as a part of the permit review process, and would continue to be subject to environmental review under the proposal.

Built Environment

Land & Shoreline Use, Height/Bulk/Scale

The proposed changes are not expected to create significant impacts on existing and planned land and shoreline use. No incompatible uses would be allowed or encouraged by these amendments. No site-specific proposals are proposed at this time. A few changes to development standards warrant additional analysis and are discussed below.

The proposed change to subsection 23.28.030.A.5, would require applicants to demonstrate that proposed adjusted lots would be served by existing or extended infrastructure prior to a lot boundary adjustment (LBA) approval. It should be noted that LBA's do not create lots but simply adjust the boundaries between existing lots. The new language would provide a means to better address issues with utility improvement requirements for LBAs that usually come from Seattle Public Utilities. LBAs, as a "Type I" nondiscretionary review, cannot be conditioned like a short subdivision to require utility improvements, but the change would potentially provide authority to require the applicant to show where the utility connections would be located for purposes of evaluating future building permit applications. This proposal is likely to improve the process for utility improvements and would have a positive effect on land and shoreline use.

The proposed change to subsection 23.41.012.B.11.g would add language to the Code specifically providing for design departures from rooftop coverage limits for rooftop features in Midrise and Highrise multifamily zones and in commercial and Downtown zones that are allowed an exception to height limits. The rationale is that the departure is not from a height limit, but rather from standards intended to regulate appearance of a structure roof, and this is a subject within appropriate purview of a design review board. Because of the authority afforded the Design Review process and Board review, any effect on land use is expected to be minimal.

The existing Section 23.42.112 allows structures nonconforming to development standards that are occupied or accessory to residential uses to be rebuilt or replaced. The proposed change would add language to clarify that nonconforming development that is not structural, such as existing street access rather than alley access or a parking pad in a required front yard, could be maintained if a residential structure is rebuilt. As an example, this change would clarify that an existing nonconforming garage with street access would not be required to be rebuilt with an orientation toward an alley. The effect on land use is expected to be minimal because existing conditions would continue.

The proposed change to Section 23.44.026 would specifically allow a conditional use review for a use not otherwise permitted in the zone to apply to both landmark structures, as it does now, and to the "sites" on which they are located, because there are cases where whole sites are landmarked and it may have been the intent of the code to allow for a use on the site, but the code only states "structure." The effect on land use is expected to be minimal, as the conditional use process is subject to public comment and an appealable land use decision.

A proposed change to Section 23.48.007 would add the Major Phased Development process to Seattle Mixed (SM) zones, providing the same language already in the Code for industrial zones and for all commercial zones other than SM. There is no policy reason to not allow Major

Phased Development in SM zones and no effect on land use would result from this procedural change.

Two changes to Section 23.48.245, regulating upper-level development standards in South Lake Union Urban Center, are worth noting. The first change is to the height limit standard for podiums in subsection 23.48.245.B.4.a. Podiums are the portion of a structure containing the stories from street level up to a zone specified height limit and they provide a base above which additional stories of a tower are permitted. The existing language says that the podium height limit extends from the street lot line to a parallel alley lot line or, if there is no alley parallel to the street lot line, to a distance of 120 feet from the street lot line or to the rear lot line if the lot is less than 120 feet deep. This standard assumes a straight street lot line but does not provide guidance on how to measure the height limit from a curved or irregular street lot line. The change would add language explaining that the measurement from a street lot line that is not straight is from the point where the distance between the street lot line and the rear lot line is the narrowest.

The other change is to tower limits per block or block front in 23.48.245.F. John Street is interrupted in South Lake Union between Terry and Boren because of the grade. The proposed changes clarify that “block front” on the east side of Terry does not stretch all the way from Denny to Thomas, but rather it was intended that John Street (if extended) would separate two block fronts there, and thus the undedicated area is also regarded as separating the two block fronts.

The proposed changes are not expected to have significant impacts. The changes would affect only a small number of properties meeting the specific conditions identified in the proposed code changes.

The proposed change to subsection 23.49.008.B would add DOC2 zones to the eligible zones allowing 10 percent extra height for an interesting roof and to accommodate mechanical and common recreation area. Because the height increase is narrowly limited to certain features and exists in other Downtown zones, no substantial effect on land use is expected. Further, the number of sites in DOC2 zones that are undeveloped or likely to be redeveloped is limited.

A series of amendments to bicycle parking requirements under Section 23.54.015.K are proposed that are all modest clarifications to existing requirements and are intended to make bicycle parking work more efficiently and conveniently for developments where it is required. No effect on land use is expected.

Changes to Section 23.54.040 would add a 24-foot overhead clearance requirement for access to solid waste and recyclable storage areas of containers larger than two cubic yards where direct access to the storage space by a collection vehicle is proposed. Another change would require that access ramps to both storage space and collection locations shall not exceed a 6 percent grade. These changes are very minor and are not expected to affect land use.

No proposed measures to reduce shoreline and land use impacts are required. Individual projects that may use the land use and zoning provisions of the proposal will occur over time and cannot

be evaluated in terms of land use impacts at this stage. Such projects will be subject to environmental review (if they meet or exceed thresholds for environmental review) as they move forward.

Conclusion

The proposed changes fall within the scope and intent of adopted policy goals for the City of Seattle. The general effect of the changes would be to provide greater consistency between SDCI practice and policy, update agency references, clarify various Code provisions, and correct typographical errors and incorrect cross-references. Future development using these provisions will be subject to SEPA, as required, to address potential adverse impacts. Therefore, no mitigation pursuant to SEPA policies is warranted.

DECISION - SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist, code amendment, and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIS is not required under RCW 43.21C.030(2)(c).

- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(c).

Signature: Signature on File
David G. VanSlike, Senior Land Use Planner
Department of Construction & Inspections

Date: October 3, 2019